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This presentation will
begin at 3:15 P.M.
Thank you.**



2009 Montana Legislative Update for Public Defenders

<http://leg.mt.gov/css/Sessions/61st/bills%20signed.asp>

House Bill 228



Citizen and Self-Defense and Firearm Rights; Rewriting the Rules of Self-Defense

This bill is codified at 45-3- part 1; 46-5-Part 3; 70-24-Part 1; and 46-16-Part 1.

This Bill is Effective Immediately.



SIGNIFICANT CHANGE OF LAW !!

- In a criminal trial, when the defendant has offered evidence of justifiable use of force, the state has the burden of proving beyond a reasonable doubt that the defendant's actions were not justified.

Senate Bill 96

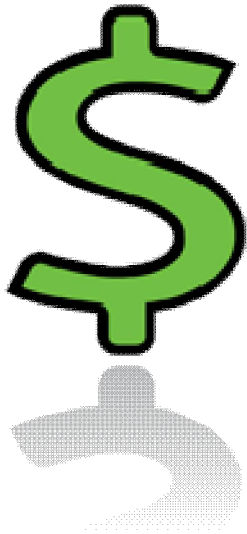


Revise Rules on
Mental Illness
Evaluations in
Criminal Justice
System in Regard
to State Hospital

This bill amends 46-14-
311; and 46-18-111

This Bill is Effective
Immediately.

Senate Bill 263



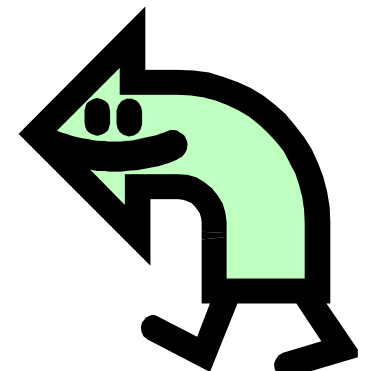
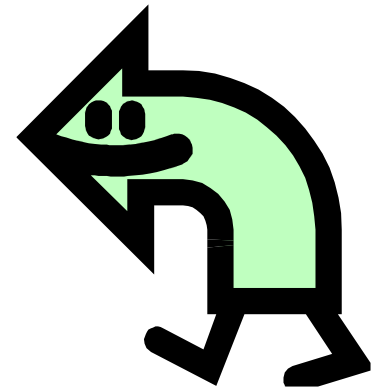
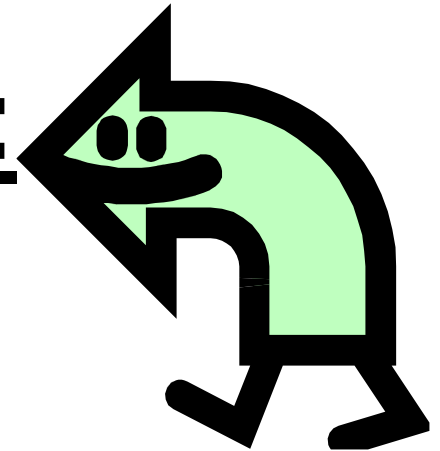
Revise Public Defender Laws – Recoupment of Costs

This Bill amends 46-18-113
and 47-1-111

This Bill is Effective
July 1, 2009

Practice pointers:

- You must advise your clients that they may have to pay the actual costs (attorney time + any experts or 3rd party costs) if they go to trial and lose.
- You must make sure the court accurately assesses the client's ability to pay.
- You must present evidence as to your client's ability to repay.
- Before you resolve any case you must know what the actual accrued costs are.



Senate Bill 341



Adding Prosecution and Pretrial Supervision Costs to Fees Paid by a Defendant

Sections of this bill are codified at
46-18-Part 2 while others amend
46-18-232

This Bill is Effective
July 1, 2009

House Bill 177



Define a “conditional discharge” for probation and parole and establish grounds for revoking conditional discharges

This bill is codified at 46-23-
Part 10

This Bill is Effective
October 1, 2009

House Bill 407



Protect Children from Sexual Exploitation and Abuse by Sexual Predators

Sections of this bill amend 45-5-625
while other sections are codified at
46-4-Part 3

This Bill is Effective
October 1, 2009

House Bill 534



Require Audio-
Video Recording of
Custodial
Interrogations and
Establish
Exceptions to the
Law.

This bill is codified at 46-
Chapter 4

This Bill is Effective
October 1, 2009

Definitions.

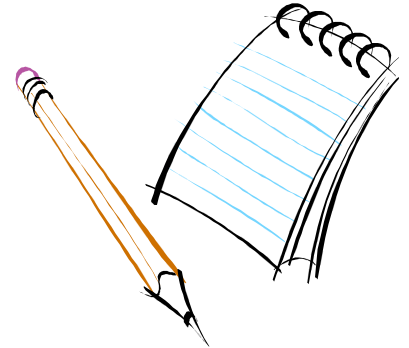


- (1) **Custodial Interrogation:** an interview conducted by a peace officer in a place of detention for the purpose of investigating a felony if the interview is reasonably likely to elicit a response from the person being interviewed that may incriminate the person being interviewed with regard to the commission of an offense.
- (2) **Electronic recording:** audio, visual record that is authentic and unaltered
- (3) **Place of detention:** jail, police or sheriff's station, holding cell, correctional or detention facility, office, or other structure in this state where persons are held in connection with criminal charges or juvenile delinquency proceedings.
- (4) **Statement:** communication that is oral, written, sign language, or nonverbal.

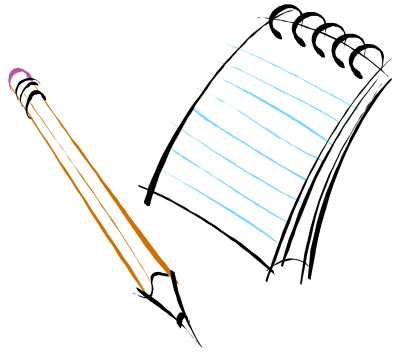


NOTE THAT:

- The court still has the ability to allow statements into court that were not recorded if:
 - The state proves that statements were made voluntarily by the defendant without a recording.
 - If the questions put forth by law enforcement were part of a routine booking or processing; if the interviewee, before the interview began, unambiguously requested the interview not be recorded;
 - If the equipment used to record the interview failed, yet the failure was unforeseeable.



NOTE ALSO THAT:



- If the court does in fact allow an interview to be presented in court when the interview was not recorded, the court must issue a cautionary instruction to the jury.
- Finally, a copy of the interview must be held in evidence by law enforcement until all appeals, post-conviction, and habeas corpus matters have expired.

Senate Bill 91



Revise Waiver of Attorney by Youth for Custody Hearings

This bill amends 41-5-331 and
41-5-333

This Bill is Effective
October 1, 2009

Be Aware that:



- **Parents can no longer waive representation for a juvenile at a custody hearing without first meeting with the attorney.**
- **OPD attorneys must meet with juveniles prior to these hearings**

Senate Bill 157



Revise Ability to Waive Audio- Video Hearings for Initial Mental Health Proceedings

This bill amends 53-21-140

This Bill is Effective
October 1, 2009

Senate Bill 476



Increase Monetary Amount Threshold for Felonies

This bill amends 45-2-101; 45-6-101;
45-6-103; 45-6-104; 45-6-301; 45-6-
309; 45-6-311; 45-6-312; 45-6-313; 45-
6-316; 45-6-317; 45-6-325; 45-6-332;
45-6-341; and 45-7-210

This Bill is Effective
October 1, 2009

Senate Bill 235



Revise Law on Who May Perform Psychological Testing

This bill amends 37-17-104;
and 37-23-102

This Bill is Effective
October 1, 2010

House Bill 132



Diversion of Involuntary Commitment to Short-Term Inpatient Treatment

Sections of this bill amend 53-21-102;
53-21-122; 53-21-123; 53-21-162; and
53-21-1001 while other sections are
codified at 53-Chapter 21

This Bill is Effective
October 1, 2009

House Bill 55



Geographical Restrictions on Juvenile Sex Offenders

This bill amends 41-5-215 and
41-5-1513

This Bill is Effective
Immediately.

House Bill 308



Donation of Food as Method of Community Service

This bill amends section 46-
18-201

This Bill is Effective
Immediately.

House Bill 222



Revocation of Hunting and Fishing Privileges Until Fines for Title 87 Offenses Are Paid

This bill amends 87-1-102 and
87-2-106

This Bill is Effective
Immediately.

Senate Bill 171



Create the Law of Criminal Damage to Rental Property

This bill is codified at
45-6-Part 1

This Bill is Effective Immediately

Senate Bill 214



Increase Penalties for Cattle Theft

Sections of this bill are codified at 45-6-Part 3 while other sections amend 45-2-311; 45-6-301; and 45-6-327

This Bill is Effective
Immediately.

House Bill 269



Monetary Credit for Jail Sentence

This bill amends 46-17-302
and 61-7-118

This Bill is Effective
July 1, 2009

House Bill 223



Revocation of Hunting and Fishing Licenses for Certain Offenses on Fish, Wildlife, and Parks Land

This bill amends 23-1-106; 45-6-101; 45-6-203; and 87-1-102

This Bill is Effective
October 1, 2009

House Bill 536



Revise Probationary License Requirements in Regards to Interlock Ignition Devices

This bill amends 61-5-208; 61-8-442; and 61-8-733

This Bill is Effective
October 1, 2009